

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT WORKMAN,)	
)	
Petitioner,)	Case No. 1:09-cv-2-SJM-SPB
)	
v.)	
)	
SUPERINTENDENT FOLINO, <i>et al.</i>)	
)	
Respondents.)	

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was received by the Clerk of Court on January 5, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Report and Recommendation, filed on December 13, 2010 [16], recommends that the instant petition for writ of habeas corpus be dismissed for lack of jurisdiction and that a certificate of appealability also be denied. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI-Greene, where he is currently incarcerated, and on the Respondents. No objections to the Report and Recommendation have been filed.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 14th Day of January, 2011;

IT IS ORDERED that the instant petition for writ of habeas corpus be, and hereby is, DISMISSED for lack of jurisdiction, as this is at least the third habeas petition filed by the Petitioner challenging his judgment of sentence, and Petitioner has not obtained authorization from the Third Circuit Court of Appeals to file the instant petition, as is required by 28 U.S.C. § 2244(b)(3)(A). Inasmuch as jurists of reason would not find it debatable whether jurisdiction is lacking over the instant petition, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on December 13, 2010 [16], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter